

**TOXIC, FOREVER CHAMICALS:
A CALL FOR IMMEDIATE
FEDERAL ACTION ON PFAS**

HEARING
BEFORE THE
SUBCOMMITTEE ON ENVIRONMENT
OF THE
COMMITTEE ON OVERSIGHT
AND REFORM
HOUSE OF REPRESENTATIVES
ONE HUNDRED SIXTEENTH CONGRESS
FIRST SESSION

NOVEMBER 19, 2019

Serial No. 116-72

Printed for the use of the Committee on Oversight and Reform



Available via the World Wide Web: <http://www.govinfo.gov>
<http://www.house.oversight.gov>
<http://www.docs.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

38-553 PDF

WASHINGTON : 2020

COMMITTEE ON OVERSIGHT AND REFORM

CAROLYN B. MALONEY, New York, *Acting Chairwoman*

ELEANOR HOLMES NORTON, District of Columbia	JIM JORDAN, Ohio, <i>Ranking Minority Member</i>
WM. LACY CLAY, Missouri	PAUL A. GOSAR, Arizona
STEPHEN F. LYNCH, Massachusetts	VIRGINIA FOXX, North Carolina
JIM COOPER, Tennessee	THOMAS MASSIE, Kentucky
GERALD E. CONNOLLY, Virginia	MARK MEADOWS, North Carolina
RAJA KRISHNAMOORTHY, Illinois	JODY B. HICE, Georgia
JAMIE RASKIN, Maryland	GLENN GROTHMAN, Wisconsin
HARLEY ROUDA, California	JAMES COMER, Kentucky
KATIE HILL, California	MICHAEL CLOUD, Texas
DEBBIE WASSERMAN SCHULTZ, Florida	BOB GIBBS, Ohio
JOHN P. SARBANES, Maryland	RALPH NORMAN, South Carolina
PETER WELCH, Vermont	CLAY HIGGINS, Louisiana
JACKIE SPEIER, California	CHIP ROY, Texas
ROBIN L. KELLY, Illinois	CAROL D. MILLER, West Virginia
MARK DESAULNIER, California	MARK E. GREEN, Tennessee
BRENDA L. LAWRENCE, Michigan	KELLY ARMSTRONG, North Dakota
STACEY E. PLASKETT, Virgin Islands	W. GREGORY STEUBE, Florida
RO KHANNA, California	FRANK KELLER, Pennsylvania
JIMMY GOMEZ, California	
ALEXANDRIA OCASIO-CORTEZ, New York	
AYANNA PRESSLEY, Massachusetts	
RASHIDA TLAIB, Michigan	

DAVID RAPALLO, *Staff Director*

BRITTENY JENKINS, *Subcommittee on Environment Staff Director*

JOSHUA ZUCKER, *Assistant Clerk*

CHRISTOPHER HIXON, *Minority Staff Director*

CONTACT NUMBER: 202-225-5051

SUBCOMMITTEE ON ENVIRONMENT

HARLEY ROUDA, California *Chairman*

KATIE HILL, California	JAMES COMER, Kentucky, <i>Ranking Minority Member</i>
RASHIDA TLAIB, Michigan	PAUL A. GOSAR, Arizona
RAJA KRISHNAMOORTHY, Illinois	BOB GIBBS, Ohio
JACKIE SPEIER, California	KELLY ARMSTRONG, North Dakota
JIMMY GOMEZ, California	FRED KELLER, Pennsylvania
ALEXANDIRA OCASIO-CORTEZ, New York	

C O N T E N T S

Hearing held on November 19, 2019	Page 1
WITNESSES	
Mr. Mark Ruffalo, Actor, Producer and Artist Oral statement	7
Mr. Scott Faber, Senior Vice President of Government Affairs, Environmental Working Group Oral statement	9
Tiger Joyce (minority witness), President, American Tort Reform Association Oral statement	10
Mr. Mark Favors, U.S. Army Veteran, Member, Fountain Valley Clean Water Coalition Oral statement	12

**Written opening statements, and the written statements for witnesses are
available at the U.S. House Repository: <https://docs.house.gov>.*

INDEX OF DOCUMENTS

The documents listed below are available at: <https://docs.house.gov>.

- * British Medical Journal article from 2019 that concluded PFAS was not associated with tooth decay; submitted by Rep. Gibbs.
- * List of 30 corporations that have employed lobbyist to discuss PFAS policy and legislation; submitted by Rep. Ocasio-Cortez.
- * Department of Defense Memorandum; submitted by Rep. Ocasio-Cortez.
- * Pictures of a press conference outside the U.S. Capitol with Mark Ruffalo and members of Congress; submitted by Rep. Keller.

TOXIC, FOREVER CHAMICALS: A CALL FOR IMMEDIATE FEDERAL ACTION ON PFAS

Tuesday, November 19, 2019

HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON ENVIRONMENT
COMMITTEE ON OVERSIGHT AND REFORM
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:25 p.m., in room 2154, Rayburn House Office Building, Hon. Harley Rouda, (chairman of the subcommittee) presiding.

Present: Representatives Rouda, Wasserman Schultz, Tlaib, Khanna, Gomez, Ocasio-Cortez, Comer, Gibbs, and Keller.

Also present: Representative Kildee.

Mr. ROUDA. The committee will come to order.

Without objection, the chair is authorized to declare a recess of the committee at any time.

This subcommittee is continuing its examination and call for immediate Federal action on PFAS. I now recognize myself for five minutes to give an opening statement.

Good afternoon. This is the fourth hearing the Environmental Subcommittee has held on the contamination of air, water, and food with perfluoroalkyl and polyfluoroalkyl substances, a class of manmade chemicals referred to as PFAS.

Our previous hearings have established the scientific facts about these chemicals. They do not degrade, earning their nickname “forever chemicals,” and they are toxic to humans, having been linked to serious adverse health outcomes such as low fertility birth defects, suppression of the immune system, thyroid disease, and cancer.

We have heard witnesses testify to the pervasiveness of PFAS contamination in America’s water, air, and food supplies. Some of them are here today.

At our hearing in September we heard about the actions of certain corporations that downplayed the scientific research linking these dangerous chemicals to serious adverse health effects and to conceal this evidence from the American public.

Today, our goal is to urge this administration to take immediate Federal action to regulate and cleanup these dangerous chemicals.

You know, at these hearings we—public officials tend to speak perhaps a little too clinically. We say PFAS chemicals can cause birth defects and cancer in humans.

But what we should be saying is this. Because these chemicals have been cavalierly dumped by corporations in rivers and landfills, they have poisoned pregnant women and permanently injured and damaged their children, who will suffer severe health problems for the rest of their lives.

People have lost their spouses, parents, and other loved ones. People have been saddled with medical bills they cannot afford and that will put them into massive long-term debt, sometimes for the rest of their lives.

We have got people who are just now realizing they have been drinking contaminated water for years, who have to pray each day that they don't get sick and their families don't get sick.

So even now, we might speak about the PFAS crisis in terms that sound impersonal and bureaucratic, like saying we need to regulate these chemicals and set maximum contaminant levels.

What we are really trying to say is that we need government to save people's lives by protecting them from dangerous chemicals they did not know they were drinking and wouldn't have drunk if the truth had not been shrouded by them from corporations that knew for decades how toxic these chemicals were and are.

We need the Federal Government to protect people because we have seen what happens when it leaves it to corporations. And, you know, in what has become an intensely partisan environment here in Congress, this is one issue on which the two parties really can find agreement.

The ranking member of this subcommittee to my right, James Comer, said at our July 24th hearing on PFAS, quote, "It is bipartisan that we want clean drinking water. It doesn't matter if you are a conservative or a liberal or moderate. We all want clean drinking water. There is no question about that."

But the ranking member knows as well as I do that water doesn't stay clean on its own. By taking one look at the Environment Working Group's map of congressional districts with known PFAS contamination we can see just how true this is.

Our water is poisoned in Ohio, in Arizona, in North Dakota, just to name a few. We, the representatives of the people, have to work to protect that water to keep that water safe from companies that seek to maximize their profits through pollution.

And yes, that does require regulation. So when it comes right down to it, the debate we are having over whether to regulate PFAS is a debate about two camps: the American public and all of us who want clean water and the companies who have made a lot of money by exposing people to toxic substances against their will.

This is a horror story of epic proportions and so it is no surprise that it caught the attention of one of our witnesses today, Mark Ruffalo.

In the new "Dark Waters" movie he plays the attorney, Robert Bilott—

Mr. RUFFALO. Bilott.

Mr. ROUDA. Bilott. Thank you. Robert Bilott, who himself testified before this subcommittee in September. Mr. Bilott defended thousands of plaintiffs in Parkersburg, West Virginia, against DuPont, a chemical manufacturer that not only contaminated the

groundwater in Parkersburg but also spent decades covering up that they had done so.

And the horror story does not end there. The drinking water supplies on and around military bases have been contaminated by these chemicals and haven't yet been cleaned up.

These men and women answered the call of duty and risked their lives for our country, and yet they can't safely take a drink of water from their canteen.

This is a tragedy, plain and simple. Mark Favors, a U.S. Army veteran, is here with us today to share his story and those of his family members who are suffering the human cost of PFAS contamination on and around military bases.

The Environmental Protection Agency needs to set maximum contaminant levels under the Safe Drinking Water Act, not just for the two most notorious types of PFAS chemicals, PFOS and PFOA, but for PFAS as a class—a class of more than 5,000 different man-made chemicals.

And the Department of Defense needs to commit to cleaning up contamination around military sites expeditiously and work with the urgency this crisis demands to find an alternative to the PFAS-containing firefighting foam used in training exercises.

The EPA has announced that it will issue its proposed regulatory determinations for PFOS and PFOA by the end of the year, and it can't come soon enough.

But it is imperative that Americans be kept safe from all PFAS chemicals. The fact is we don't know the full extent of the effects these chemical alternatives to PFOA and PFOS will have on humans.

But the scientific evidence thus far suggests that these chemicals are toxic, that they do bioaccumulate in the human body just like their predecessors.

Do we really want to be sitting here 50 years from now asking ourselves why we didn't take action on the so-called alternatives, the same way we are sitting here in the year 2019 asking ourselves why we didn't regulate PFAS and PFOA earlier.

I hope we take the opportunity to learn from our mistakes rather than repeat them. We are finished with being hoodwinked by corporate interests. We are done being placated, being told we are moving forward when we are actually standing still.

The American people are paying attention and I promise you all that I will work relentlessly with my fellow members here to ensure that you have the freedom to drink water from your faucet and your well without worrying that it will someday give you cancer.

I will work to ensure your safety. The United States should not be a place where your water can kill you.

Before I invite the subcommittee's ranking member, Mr. Comer, to give his opening statement, I want to say a few words about the conduct we witnessed at our minority—from our minority at our last hearing on tailpipe emission rollbacks and Federal policy to address climate change.

You know, it is not always fun being in the minority and Republicans are going through a tough time right now being forced to defend a deeply unethical president.

But there is no excuse for trying to shut down a hearing that this subcommittee convened in good faith in an effort to ensure Americans' right to breathe clean air.

The minority requested and was granted their own witness for that hearing. Yet, neither Mr. Comer nor any of my other colleagues in the minority ever came to me or my staff before the hearing to broach any concerns.

Frankly, when my Republican colleague from Arizona made the motion to adjourn, I wasn't even sure he was still a member of the subcommittee because I can count on two fingers how many times he has attended these subcommittee meetings.

But he did find the time to come and try and shut down a hearing on climate change policy and Americans' right to clean air.

Those actions were not in good faith. I certainly hope that in the future my Republican colleagues would have the courtesy and the decency to come to me beforehand to raise any concerns they might have.

I should also point out when we Democrats were in the minority we never once, not once, tried to adjourn one of the committee's hearings.

In a sad way, my Republican colleague's stunt at the last hearing represents exactly what is wrong with their party's entire approach to addressing the most important environmental issue of our time.

They just ignore the problem, put their heads in the sand, and try to shut down any attempt to promote smart policy that addresses scientific reality.

If that is the way my Republican colleagues think the government should be run, they should be ashamed, because it is not just the members of one political party whose lives are at risk.

If we do not act now to protect the right to clean air and clean water, if we don't work to address the existential crisis of climate change, then all of our lives are at risk.

We are the stewards of the public interest. We owe it to the American people to tackle the big problems, not waste time with cheap stunts.

And with that, the chair now recognizes the ranking member, Mr. Comer of Kentucky, for five minutes for an opening statement.

Mr. COMER. Well, thank you, Chairman Rouda. It is good to start off with a good bipartisan tone for this committee.

We are here today for the subcommittee's fourth hearing on this—on the large group of chemicals collectively known as PFAS.

I want to thank the witnesses for their willingness to appear before this subcommittee and, hopefully, we can have a good productive discussion that will actually lead to achievable results in the future.

As I have said in each of the previous four hearings, potential drinking water contamination is frightening for any community and it is—there is bipartisan support to have clean drinking water.

It is important to remember that the reason that PFAS substances became so predominantly used in the first place is they provide strength, durability, and resilience in a broad range of applications from nonstick cookware to firefighting foams that save lives.

Why does the medical technology industry care about proposed actions related to PFAS? Because the medical devices made by these companies for over 50 years have been made with fluoropolymers, a PFAS compound.

Tens of millions of these devices have been used by patients without demonstrating any adverse health effects. In fact, they have achieved the opposite.

They have kept patients alive and healthy. As I have told you before, Mr. Chairman, I am committed to working with my colleagues on solutions that will contain any existing damage from legacy PFAS substitutes and reduce the risk for future harm.

But I also that we, as a body, can make responsible evidence-based science-driven decisions. It is important to note that nearly 5,000 chemical compounds make up the PFAS family. Five thousand chemical compounds.

These compounds have different structures and characteristics, which means they also have varying health and environmental impacts. Thorough research has only been done on a small number of these compounds.

So we should be careful about taking any sweeping actions that could have the unintended consequence of negatively impacting a broad segment of the economy, including public entities like hospitals and airports.

Any legislative or regulatory actions we consider should be based on solid scientific understanding of the toxicity of specific compounds.

I would also like to note for the record something about today's hearing makeup, Mr. Chairman, since you mentioned previous hearings.

During the Oversight Committee hearing last week, one of the majority members—one of your party's members—questioned the minority witness about her lack of, quote, “scientific or particular expertise in the subject matter whatsoever,” unquote.

In short, the Democrat member tried to say that the minority witness should be ignored. I have heard from several of my colleagues today that they found the witness testimony compelling and informative.

But I would like to note for the record that if this is the majority's view of witness suitability, it is unclear to me why a Hollywood actor with no scientific expertise on PFAS chemicals would be called to testify today.

It appears to me that this fourth hearing on PFAS could be viewed as an attempt by committee Democrats to use it to assist the promotion of a movie that may include—may include—false narratives about PFAS.

This is similar to the last hearing on PFAS in September, which—

Mr. KHANNA. Mr. Chairman, I object to the ad hominem attacks on Mr. Ruffalo.

Mr. ROUDA. So noted. Please continue.

Mr. COMER. This is similar to the last hearing on PFAS in September, which featured a plaintiff's attorney in ongoing litigation against the chemical industry as well as a paid expert witness involving those cases.

Today, we have the actor who is portraying that same plaintiff's attorney testifying.

Now, I am a firm believer in the broad authority of congressional oversight. But I become very concerned when Congress uses its investigative tools in ways that can interfere with or give the appearance of interfering with ongoing litigation.

I hope the subcommittee will commit to doing its best to refrain from interfering or appearing to interfere with ongoing litigation as we move forward.

Today, I would like to spend some time discussing EPA's PFAS Action Plan, which the agency released in February of this year.

In it, EPA outlined several short-and long-term actions to minimize risk, increase scientific knowledge about the broad range of PFAS substances, prevent exposure and cleanup existing contamination. That is what our goal should be, in a bipartisan manner.

A few weeks ago the EPA sent two actions from the PFAS action plan to the Office of Management and Budget for review. The first action would allow the public to provide input on adding PFAS to toxic release inventory—toxic chemical list——

Mr. ROUDA. The member's time has expired.

Mr. COMER. Mr. Chairman, with all due respect, you went over a few seconds as well.

Mr. ROUDA. Please wrap up your comments.

Mr. COMER. The second action would ensure that certain persistent long-chain PFAS chemicals cannot be imported into the United States without notification review.

The two actions taken in late September show the continued commitment by EPA to implement the PFAS Action Plan.

Thank you, Mr. Chairman. Again, I would like to welcome the witnesses here today.

Mr. ROUDA. Thank you.

Now I want to welcome our witnesses. We have Mark Ruffalo, actor, producer, and activist; we have Scott Faber, senior vice president for government affairs, the Environmental Working group; Mark Favors, U.S. Army veteran, member of Fountain Valley Clean Water Coalition; and Mr. Tiger Joyce, president, American Tort Reform Association.

Please stand. Raise your right hand. I will begin by swearing you in.

Do you swear or affirm that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

[Chorus of ayes.]

Mr. ROUDA. Thank you. Please be seated.

Let the record show that the witnesses answered in the affirmative. The microphones are sensitive so please speak directly into them.

We have had votes called. So I think what we are going to do is go through one, maybe two five-minute opening statements and then we are going to have to do a short recess.

Okay. So the floor is yours, Mr. Ruffalo.

**STATEMENT OF MARK RUFFALO, ACTOR, PRODUCER, AND
ARTIST**

Mr. RUFFALO. Thank you very much, and I am honored to be here today and have the opportunity to testify.

My name is Mark Ruffalo and I am honored to play the role of Rob Bilott in the upcoming film "Dark Waters." You have already heard testimony from Rob so you know that Rob has dedicated his life to protecting all of us from PFAS.

What you may not know is that Rob has risked everything, including his career and his own health, to uncover one of the greatest corporate environmental crimes in history. So he should be seen as a true American hero.

It was Rob who uncovered what this committee has now shared with the American people, that by the 1950's, 3M knew that PFAS could buildup in our blood; that by the 1960's, DuPont and 3M knew that PFAS could be toxic; that by the 1970's, DuPont and 3M knew that PFAS was, indeed, building up in the blood of all of us and harming their own workers; and that by the 1980's, DuPont knew that PFAS was contaminating the tap water of nearby communities.

But that is not all. Rob not only discovered that these toxic chemicals were building up in our blood; he also sounded the alarm, sharing what he found with the EPA and also Rob secured the funding through a legal settlement with DuPont to undertake the biggest human health study of toxic chemicals ever.

Thanks to Rob, independent experts reviewed the blood work and medical records of 70,000 people whose water had been poisoned by DuPont.

That study found a probable link between PFOA and cancer and five other serious diseases including reproductive and immune system harm.

Hundreds of subsequent studies have found that PFAS chemicals, including replacements for PFAS chemicals, like the new GENX, pose many of the same risks.

Here is what we now know. We know that PFAS are called forever chemicals because they buildup in our blood and organs. We know that PFAS chemicals have been linked through animal, worker, and human studies to serious health problems.

But, Mr. Chairman, we have done absolutely nothing. We have not stopped industrial releases of PFAS into the air and water.

We have not stopped PFAS from being used in food packaging, cookware, cosmetics, and other everyday consumer products. We have not stopped the use of PFAS in firefighting foams nor have we cleaned up legacy PFAS pollution.

This is decades. There is still no legal requirement to filter PFAS from tap water. So more than a hundred million Americans today are likely drinking water contaminated with PFAS. Nor is there any legal requirement to clean up the most contaminated sites.

So who is paying for this failure to act? It is the people, people like Sandy Wynn-Stelt, whose husband died from liver cancer after a nearby tannery poisoned the drinking water with PFAS.

It is people like Bucky Bailey, who is here today, whose mom, Sue Bailey, worked at DuPont's Teflon line while she was pregnant with him and who was born with numerous birth defects.

These are real people, guys. It is real people, Mr. Chairman - people who live in the frontline communities like Oscoda, Michigan. Real people who are paying the price in the form of higher health care costs and higher water bills.

These chemicals don't respect political boundaries, which I am so glad we can understand and we agree bipartisan. They are found in the blood of people in Oatman, Arizona, and they are found in the blood of people in Fargo, Dakota.

They are found in me. They are found in my kids. They are found in every one of you.

So who should pay? The companies. The companies that made billions upon billions of dollars producing chemicals they knew were building up in our blood and knew—and they knew they were toxic but failed to tell anyone.

Failed to tell their workers, failed to tell their neighbors, failed to tell the regulators, which keeps us from making a choice about how we are going to live our lives.

These companies are making us sick, Mr. Chairman, and we are paying—we are paying to have to heal ourselves.

I understand that today's hearing is focused on PFAS. But the problem is not limited to PFAS. In America, it falls to us, the ordinary people, to prove that these chemicals are toxic before the chemical is regulated by our government. That is simply backward.

It is the companies that make billions of dollars producing these companies, not us—not the rest of us—who should be required to prove their products are safe before they bring them to the market. Cautionary principle—it is used throughout the world today and it keeps communities from being sick.

Mr. Chairman, it is time to regulate PFAS chemicals. It is time to end industrial releases of PFAS into the air, into the water.

It is time to end needless uses of PFAS in everyday products like food packaging or cosmetics. It is time to finally filter PFAS out of our drinking water and it is time to clean up the legacy of PFAS contamination, especially at our military bases. This goes far outside medical uses.

So let me close by thanking you, Mr. Chairman, for now holding four hearings on PFAS contamination and the crisis that we are all facing, and for elevating the stories of real people like Sandy Wynn and Bucky Bailey and real-life heroes like Rob Bilott.

Thank you.

Mr. ROUDA. Thank you.

The chair is going to recognize a recess now so that we can go vote. Let us plan on being back in good form 10 minutes after the last vote.

Thank you.

[Recess.]

Mr. ROUDA. Well, like elementary school, recess is over. The committee is back in order here.

I think we left off with Mr. Ruffalo. So, Mr. Faber, you now have five minutes for opening testimony.

**STATEMENT OF SCOTT FABER, SENIOR VICE PRESIDENT OF
GOVERNMENT AFFAIRS, ENVIRONMENTAL WORKING GROUP**

Mr. FABER. Great. Thank you, Mr. Chairman, and members of the committee.

My name is Scott Faber. I am testifying today on behalf of the Environmental Working Group, a national environmental health organization that has fought to address the PFAS contamination crisis for more than two decades.

I know you have many questions so I will just quickly summarize my testimony.

To date, PFAS has been detected in the groundwater or tap water of more than 1,300 communities including 14 communities in Ohio, 20 communities in Pennsylvania.

Just a few weeks ago, EWG testing revealed 10 different PFAS in the drinking water of Louisville, Kentucky, and as Mr. Ruffalo said, it is probably the case that more than a hundred million Americans are drinking tap water or eating food contaminated with PFAS. Nearly all of us have PFAS in our blood, including our babies.

Because PFAS have been linked to cancer and harm to our reproductive and immune systems, we must take immediate steps to reduce ongoing PFAS releases and to clean up legacy PFAS contamination.

Despite the risks, the well-documented risks of PFAS, hundreds of manufacturers—hundreds—can still release unlimited amounts of PFAS into the air and water and have no duty to tell anyone.

Despite the risks, PFAS can still be used in food packaging and migrate into our food. Despite the risks posed by PFAS, biosolids contaminated with PFAS can still be applied to farm fields and buildup in our food crops, animal feed, and, ultimately, in all of us.

Despite all of these risks, PFAS can still be used in firefighting foams that seep into our drinking water supplies. Despite the risks posed by PFAS, badly contaminated sites still do not have to be cleaned up, including contaminated sites on or near our military installations.

Thankfully, Mr. Chairman, this Congress is finally treating PFAS contamination with the urgency it deserves. More than 40 bills and amendments, many of which are bipartisan, have been introduced to reduce ongoing PFAS releases and cleanup legacy PFAS contamination.

Earlier this year, the House passed the National Defense Authorization Act that would quickly end DOD's use of fluorinated firefighting foams and PFAS in food packaging, would regulate industrial PFAS releases into our water, and expand efforts to monitor for PFAS.

The NDAA also designates PFAS as hazardous substances, which will kick start the cleanup process at the most contaminated sites and ensure that polluters pay their fair share of cleanup cost.

This morning, the House Energy and Commerce Committee began to consider 17 PFAS bills including bills to regulate PFAS discharges into the air, require more PFAS reporting by industry, and to increase funding for water utilities to filter PFAS from our drinking water.

No American, as you said, Mr. Chairman, should ever have to wonder if their water is safe to drink or if their food is safe to eat.

But after decades of inaction, we may have finally begun to reverse the tide of PFAS pollution.

Thank you, Mr. Chairman.

Mr. ROUDA. Thank you, and you recognize some of the past efforts of Members of Congress.

One of them is here with us today, Representative Kildee, and without objection, he shall be permitted to join the subcommittee on the dais and be recognized for questioning of the witnesses. Glad to have you here.

And with that, the chair now recognizes Mr. Joyce for five minutes for his opening statement.

**STATEMENT OF SHERMAN JOYCE, PRESIDENT, AMERICAN
TORT REFORM ASSOCIATION**

Mr. JOYCE. Chairman Rouda, Ranking Member Comer, members of the subcommittee, thank you for allowing me to be here on behalf of the American Tort Reform Association.

I would like to make it clear at the outset that I am here as an advocate for lawsuit reform to discuss the overall impact of excessive litigation on legal businesses as well as its impact on the laudable goal of environmental remediation.

To be clear, I am not here as a scientist or to express a position on environmental policy or regulation.

The American Tort Reform Association believes that civil litigation should not be used to punish businesses today for making products many decades ago when they have substantial public benefits, particularly those that were developed or demanded by the government.

So-called PFAS substances are precisely that type of product as they—and they are the subject of a fast-growing number of lawsuits brought by individuals as class actions as well as cases brought by state and local governments.

Since the 1950's, thousands of substances that constitute PFAS have been made—have made possible important breakthroughs like surgical gowns and drapes that protect patients and health care providers against airborne pathogens.

They have allowed us to have implanted medical devices and improve protective gear for firefighters, chemical workers and military personnel.

It has also been the—you have heard about this a little today—the basis for firefighting foams. In fact, the U.S. Navy developed such a foam containing PFAS in collaboration with 3M to do just this in response to tragic loss of life of military personnel on Navy ships during the Vietnam War.

The Navy is now far better prepared to deal with such a situation and saves lives as a result. The Navy continues to consider this product to be, and this is their term, mission critical.

In the case of PFAS, ATRA believes that the science has gotten out in front of the litigation that we have seen. Improved technology has allowed greater detection of the presence of PFAS which, in our view, has been the catalyst for more and more litigation involving these products.

One legal commentator stated earlier this year in the ABA Journal, quote, "We may be just seeing the tip of the PFAS iceberg, at least as far as litigation goes."

This is despite the fact that the Agency for Toxic Substances and Disease Registry stated last year, and I quote, "The available human studies have identified some potential targets of toxicity. However, cause and effect relationships have not been established for any of the effects and the effects have not been consistently found in all studies," end quote.

Thus, the premier agency responsible for evaluating health and safety risks for products such as PFAS have not concluded that this broad category of products injures the public.

Yet, litigation moves forward as if the science does support that legal, and I emphasize legal, causation.

Environmental protection has been a major public policy topic for the Congress and the executive branch appropriately for decades in response to the impacts of our rapidly changing economy and way of life.

That said, it has to be acknowledged that that worthy goal has been significantly hampered by litigation over the years.

Carol Browner stated in 1994, as President Clinton's EPA administrator, quote, "A lot of time is taken up with companies suing each other over how much they owe to clean up a particular site," and that continues to be the case.

Members of the subcommittee should know that additional legal issues have developed with regard to Superfund and CERCLA.

States can look to impose remediation plans to clean up a Superfund site even if it conflicts with the EPA-directed cleanup. Atlantic Richfield, which agreed to do that in an EPA-approved cleanup of a copper smelting facility in Montana, is asking the U.S. Supreme Court to preempt the plan imposed by the state. That case will be heard in two weeks.

Mr. Chairman and members of the subcommittee, lawsuits, liability, statutes, and regulations should not get out in front of science.

My understanding is that the EPA is developing and implementing an action plan to address PFAS in order to protect public health.

This includes many facets which have been discussed here. The American Tort Reform Association has no position on the scope of this process, how it should proceed, and, ultimately, how it should conclude.

But we do believe that the key is for law, regulation, and litigation involving PFAS to be based on scientific consensus.

In conclusion, we believe it is wrong for a business to be subjected to extensive liability simply because a microscopic level of a company's product can be found in the air, water, or bodies absent—this is the key—a clear scientific determination of causation.

It is counterproductive to impose liability on manufacturers that develop products that provide substantial public benefits based on fear—that it, while understandable, is not scientifically substantiated.

I thank you.

Mr. ROUDA. Thank you, Mr. Joyce.

In the previous PFAS hearing we have had, we have had the opportunity to hear individual stories. It is a complex issue with a lot of comments about the chemicals and the reaction and the process.

But when we have the personal stories, such as Bucky Bailey in a previous hearing and the personal stories of Mr. Favors as well as his family and community, it is a great opportunity for all of us to take note and have clear understanding of the deep ramifications of the impact these chemicals have on us.

And with that, Mr. Favors, you are now recognized for five minutes of opening testimony.

**STATEMENT OF MARK FAVORS, U.S. ARMY VETERAN,
MEMBER, FOUNTAIN VALLEY CLEAN WATER COALITION**

Mr. FAVORS. Thank you. I want to thank Chairman Rouda and Ranking Member——

Mr. ROUDA. Turn on the microphone, if you would, please.

Thank you.

Mr. FAVORS. I want to thank Chairman Rouda and Ranking Member James Comer and this committee for this hearing and allowing me to testify.

I was born and raised in El Paso County, Colorado, around a large loving family, many of whom are U.S. military veterans like myself.

However, we are struggling to obtain justice and accountability for our family members and their neighbors dead or suffering from cancer and other diseases after firefighting foam containing toxic PFAS from nearby Peterson Air Force Base contaminated the drinking water and groundwater for decades.

This contamination began in early 1970's in the drinking water and remained until 2016, all during that time unknown to the public.

In addition to these toxic chemicals causing contamination by seeping underground off base to nearby civilian water sources, Peterson Air Force Base officials have now admitted that they actually dumped these toxic PFAS chemicals into our community's drinking water source several times a year from 1990 until 2016.

Again, Colonel Schiess from Peterson Air Force Base in 2016 admitted that they actually discharged knowingly these chemicals into our drinking water source several times a year from 1990 until 2016.

This resulted in not only extremely high levels of PFAS in the drinking water far exceeding the EPA's nonenforceable health advisory, but also in the blood of residents 10 times higher than the national average.

Some of our PFAS drinking water levels were more than a hundred times higher than the EPA's nonenforceable advisory, according to a Pentagon report to Congress.

Subsequently, in my family we have had 16 family members diagnosed with cancer who resided for a significant time within these toxic PFAS drinking water-contaminated residential areas of Widefield, Security, Fountain, and Stratmoor. At least four of these family members have died of kidney cancer, including my father in 2017, you know, which has been linked to PFAS contamination by scientists and the U.S. courts.

These cancer deaths permanently separated mothers, fathers, and grandparents from their children and grandchildren. A few years ago, a teenage cousin of ours required a kidney transplant and the doctors ruled it out that it couldn't have been genetic. His mother lived in a contaminated area since she was 10 years old.

And because these kidney cancer deaths occurred on both sides of my family including one person, a Vietnam veteran decorated for combat who married into the family, it cannot be explained by genetics.

Also, none of my family living outside of this area—the contaminated area in Colorado Springs—has ever been diagnosed with kidney cancer or failure.

Included among my affected family members are at least seven U.S. military veterans who themselves, along with their spouses and children, were being poisoned unknowingly by these—by these toxic PFAS chemicals from Peterson Air Force Base while they were on active duty and/or deployed to fight for our country in Iraq.

Indeed, there is a picture of two of my family members while they were deployed in the Iraq War together. Yet, meanwhile at that same time, Peterson Air Force Base was dumping toxic PFAS chemicals into the drinking water of their spouses and children.

We also have several family members who, as military veterans, are buried in Fort Logan National Cemetery along with their spouses.

Yet, not buried there due to lethal wounds they received when they served in our military during World War II, the Korean War, and Vietnam, but instead, dead from cancer after having their drinking water contaminated with toxic PFAS chemicals for decades here in the United States without their knowledge nor consent.

So imagine surviving World War II, the Korean, or Vietnam War as a U.S. military service member fighting for our country only to come home safe. But then years after unknowingly drinking toxic PFAS chemicals put in there by our government be diagnosed with deadly cancer.

And in the case of Leonard M. Haynes, not only are you stricken with deadly cancer but so are your wife, child, and grandchild, a grandchild who, at the age of 39, was buried last year, dead from cancer, leaving behind two daughters and a husband.

And we also just buried my aunt Ivory, pictured here, in Fort Logan National Cemetery last month. My cousin, Princess, died of kidney cancer at 55, who was raised in the area.

The Colorado Health Department, they did an investigation and found that lung, bladder, and kidney cancer rates were significantly higher than expected in the contaminated areas versus the noncontaminated areas.

But then they chose not to investigate, stopped the investigation, along with the EPA because they said they didn't have the money and the DOD has been in charge of the investigation since then and has given us information on a need to know basis and has denied us to be a resident advisory board.

And also now they have admitted that the Air Force Academy's contamination from PFAS is just as large as Peterson. You know,

they never offered any blood tests nor has the state of Colorado set legally enforceable statewide PFAS drinking water levels.

And when the Colorado Health Department tried to induce a site-specific standard—a groundwater standard for PFAS, the Pentagon said it would not apply to the military because they have sovereign legal immunity.

And the Air Force knew about these warnings for years from their own scientists. In fact, Fort Carson, which is in our same county, 10 minutes away from Peterson Air Force Base, a DOD agency, the U.S. Army Corps of Engineers, told them in 1991 to stop using PFAS-laden firefighting foam and to replace it with something nonhazardous.

Meanwhile, a 10-minute drive away, another DOD facility decided it was a great idea to dump those same toxic chemicals into the drinking water. And also in 1997, an Army study told the soldiers to treat the firefighting foam as something toxic to the environment.

So if the Defense Department via the Army didn't have to wait for EPA guidance in 1991 and 1997, why do they have to wait—why are they not doing anything based on EPA guidance now?

So here we have two U.S. military bases in the same county 10 minutes apart. A DOD agency tells one ban the PFAS. They do it. The other one says, you know what, we will just dump it into the drinking water source.

I want Congress to investigate that and, you know, and figure it out. Right now I have used up all my time. But what I want to say is, you know, my mother worked for Peterson for 40 years serving from Colorado Springs. Serving in the military is part of our culture.

We will continue to serve in the military. My niece just called me last week saying she wants to join the Navy. So, you know, we need to get this fixed so we can protect the people, you know, as they serve and I hope and I wish that you could be bipartisan and just, you know, have the courage to do something, just an investigation, because most of these men in my family, did I tell you they went to Vietnam?

They joined in the 1950's. There wasn't even a Civil Rights Act or a Voting Rights Act but they signed up to go fight for this country overseas doing a leap of faith.

And now we are just asking you just to have the same courage that they had and try to, you know, help these families and help us out.

Thank you.

Mr. ROUDA. Thank you, Mr. Favors, and thank you for your story.

The chair now recognizes Congresswoman Tlaib for five minutes of questioning.

Ms. TLAIB. Thank you, Mr. Chair.

Mr. Favors, I just want you to know I believe you. You know, sometimes you need to feel believed and there is many of my colleagues we believe you that it is killing your family members.

Corporate disease—corporate greed is a disease in our country and it is killing our people, and I don't know how many of you all know—I know Mr. Joyce doesn't believe in science, but I know—

did you all know that 99 percent of Americans have toxic PFAS chemicals in their blood? Ninety-nine percent of Americans.

In the 1950's, 3M scientists knew that PFAS buildup would get built up in blood. In the 1960's, DuPont and 3M knew that these chemicals were toxic. By the 1980's these companies knew that PFAS exposure caused birth defects in animals like rats and further outcomes—health outcomes in humans.

Internal company documents have been made public that confirm that they all knew. They all knew, and what I am more and more frustrated with is that it is like this so what approach.

You know, there is a sense of urgency, I think, with many of my colleagues from Michigan and, of course, our chairman who has been leading this fight from day one. But there is this attitude of so what.

So I want to ask you Mr. Favors, if there is anything—if there is one thing that you can tell every single American across the country about PFAS, what do you want them to know?

Mr. FAVORS. That, you know, after 69,000 people gave blood samples in West Virginia it was linked to cancer and diseases and, you know, it is no—like, I tell people my grandmother decided to move to this area.

She only has one sister. She was dead 11 years later. My grandmother's only sister is 98 years old and lives alone, you know.

So, you know, we just keep seeing and I have asked for a congressional investigation. You know, I don't even want to jump to conclusions but we can't even get a transparent comprehensive investigation like what happened with Flint or these other crises or what is happening at the border, you know.

My family members are being separated from their children based on government actions. So I just want the same vigor and the same help that—you know, that other issues are getting.

Ms. TLAIB. You know, and I appreciate that.

Mr. Ruffalo and Mr. Faber, what more can we do in Congress to shine the light of decades of cover up and misinformation? And that is my worry is this constant misinformation but also how do we combat this whole, like, so what attitude?

Because I want you to know, Mr. Favors, this is our fourth hearing. We have had investigative hearings. I actually look to my colleagues because I am one of the new ones here.

After the investigative hearings we will followup on letters. We will do the things that we need to do, based on what we heard in those investigative hearings.

But then we have these kind of political tactics that are happening and, again, corporate interest, corporate greed is tainting our democracy in a way that it drives away some of my colleagues to have the political courage to do something. But going to all of you—

Mr. FAVORS. Maybe try subpoenas.

Ms. TLAIB. Yes. Thank you.

So to you all, how do you combat that? How do we combat that as Congress of this so what attitude and this misinformation out there?

Mr. RUFFALO. If I knew that, the world would be a different place.

I just want to comment. Mr. Comer, I know you care about this because you said you did, and I guess—I guess it is really like an opening of our hearts to our brothers and sisters in the world, you know.

When we—when we decided to make this country we gave up our freedoms and we gave up our tax dollars in order for—and by giving those things up we made an agreement with this country that they would take care of us people.

And I think part of the disease that we are seeing in the world—in America today is a feeling that somehow that covenant that we made has been broken and that we have become slavish to corporate interests and economic interests and we have lost our connection to our fellow man and women and children.

And I know you guys have families. Like, I know that we all—we all relate to each other on these levels and I know—I believe you when you say that you care about this.

But how can we sit here and listen to these stories from Bucky Bailey or from Mark Favors and not be moved to take action?

And, you know, you can do this by, basically, stopping the things that we come into contact with—our drinking water, cosmetics—those things that we use every day—food wrappers, our clothing.

Even firefighters. We shouldn't be telling firefighters the only—listen, guys, you are going to have to get cancer. It is just part of your job. There should be no job in America that that is a disclaimer. And it is just really, like—it is just—it is just dropping our slavishness to this economic system.

I mean, it is so out of balance and there are so many sick people. We have the science. We did the studies. We know, you know.

We can't sit here and pretend like this didn't happen or that this new EPA Blue Ribbon Panel, which they had already did one in 2001—like, we don't need to know any more about this to make the changes that we know in our hearts we have to make.

If you know that you are poisoning your kid, you are not going to—you are not going to give them that anymore. I don't care what side of the aisle you stand on.

I would say that we need a kind of—a realigning with what it is to be a human being and think more about each other and less about ourselves or less about corporate interests in this country.

And then when we do that a lot of this stuff will take care of itself.

Ms. TLAIB. I couldn't agree more, and you took up most of my time but that is okay.

Mr. RUFFALO. Oh, I am so sorry.

Ms. TLAIB. It was completely worth it. But I would just leave with all of you, my 14-year-old son, he says, Mom, what about peopleism? Do peopleism. Put people before profits.

So I will leave you with all of that. But no, it was completely worth it, Mr. Ruffalo. I think what you said was exactly what we need to do in Congress.

Thank you very much.

Mr. ROUDA. Thank you.

The chair now recognizes Congressman Gibbs for five minutes of questioning.

Mr. GIBBS. Thank you. And, of course, we all want to make sure we have clean air and clean water and protect our citizens.

We also need to recognize that the chemical industry has done a lot to advance life and prolong life so we never forget that.

Mr. FAVORS, you know, it is tragic to hear your testimony. One thing that stuck out when you—when there was a little clarification you talked about the Air Force base dumped—dumped this stuff.

If that is the actual case, I believe they were—they were breaking the law when they—if they actually were dumping and not going through, you know, a process.

They were just making discharges of contaminated water. That would have already broke the—that should be illegal and that ought to be looked at. So I will just leave it there.

Mr. FAVORS. The issue is they said they had written permission from the Colorado Springs Utility Department.

The Colorado Springs Utility Department said, I have no idea. That is not true.

They have no written records ever giving the Air Force permission, which is one of the reasons I have been, for the last couple of years, coming to Congress to do an investigation to find out—

Mr. GIBBS. Okay. Well, I am—I am going to go on to another witness.

Mr. Faber, I know some organizations, including yours, argue that PFAS—the 5,000 known substances—should be regulated as a class instead of individually.

My first question is, are all the PFAS chemicals the same structurally?

Mr. FABER. Thank you for the—thank you for the question.

This class of chemicals, PFAS, has something that is—all of these chemicals have one thing in common, which is the carbon fluorine bond.

That is what the—the nature of these manmade chemicals that causes them to buildup in our blood and, ultimately, contribute to the diseases we have heard about.

And I know that it has been the subject of a lot of conversations.

Mr. GIBBS. Because PFOS, P-F-O-S—

Mr. FABER. Yes.

Mr. GIBBS [continuing]. has actually been discontinued in this country because we know that is a problem, right, and that is—is that the key one that is used in the foam?

Mr. FABER. So the—we know a lot about PFOA and PFOS, P-F-O-S, because we have reviewed the medical records and tested the blood of 70,000 people who live in the mid-Ohio River Valley, as you know, and had an independent panel of some of the Nation's most respected epidemiologists look at all of that data and draw the conclusion that PFOA is a probable cause of kidney cancer, as we heard about, testicular cancer and other diseases.

Mr. GIBBS. But are—but are chemical—like, DuPont and 3M, didn't they voluntarily quit making that product, the PFOA?

Mr. FABER. That is—yes, thank you for the question.

So they—those companies phased out the use of PFOA and PFOS but began to use very, very similar replacement chemicals like

GENX that we now know, because EPA and CDC have told us, present many of the same health risks, including cancer.

So I think the challenge here is we are playing a game of chemical whack-a-mole where we focus on one of these chemicals and we say—we convince industry—we don't regulate it.

We regulate convince industry to phaseout that particular chemical—in this case, PFOA—and instead we replace it with another chemical that may pose and in this case does pose many of the same—

Mr. GIBBS. Well, that is all up to speculation. I got to move on so I am going to run out of time.

Mr. FABER. Well, sir, that is—that is based on what EPA said in—

Mr. GIBBS. Okay. Mr. Ruffalo, I watched your movie trailer this morning and there was a young girl riding a bicycle, and it was evident that her teeth were either blackened or rotten or whatever. Is the—that image, was that supposed to intend that PFAS exposure causes tooth decay?

Mr. RUFFALO. I am not an expert on this but I will tell you what I know about it. Because of the fluoride it can, in mass quantities, begin to stain teeth.

Mr. GIBBS. Well, it depends on the question of mass quantities. But I do have from a peer-reviewed British Medical Journal earlier this year concluded that the PFAS were not associated with prevalence with tooth decay.

And Mr. Chairman, I ask unanimous consent to insert this into the record.

Mr. ROUDA. Without objection, so moved.

Mr. GIBBS. Do you know if there is anything else in that movie that is coming out Friday that might play more on emotions to sensationalize things and maybe not be accurate? Because you just said you are not sure that it does have—tooth decay is an accurate—

Mr. RUFFALO. It is not tooth decay, sir. It is tooth staining. I didn't say tooth decay.

Mr. GIBBS. Okay.

Mr. RUFFALO. And that is the truth. And it is true that high levels of fluoride do stain the teeth black and there were many children that had that staining in that community.

Mr. GIBBS. Okay.

Mr. RUFFALO. So that is true. Okay. As far as—oh, did you want me to finish?

Mr. GIBBS. I got 12 seconds so go ahead and use it.

Mr. RUFFALO. What you see in this movie except for what we had to leave out, which was things like the DOJ getting involved in this process and dropping the case just out of the blue for criminal action and on behalf of DuPont, the things that we have in the movie are the things that happened.

And yes, they are emotional because we are talking about human lives here. We are talking about people getting sick, people dying. So yes, those are emotional things. But those things all happened. Everything that is in that movie happened.

Mr. GIBBS. I think it is interesting that the movie is coming out Friday and we are having this hearing today. So I kind of wonder

what is going on here. But I think it is a little bit inappropriate with the——

Mr. RUFFALO. Well, we could talk about that. I would be willing to talk about that.

Mr. ROUDA. Member's time has expired.

The chair recognizes Congresswoman Ocasio-Cortez for five minutes of questioning.

Ms. OCASIO-CORTEZ. Thank you, Mr. Chair.

I think it is quite funny how the matters of people's lives are being diminished by such horrible allegations. But what I also find laughable is the idea that something like a movie can cause us to hold a congressional hearing because I want to get to the bottom of something.

I have pulled a list of about 30 corporations that have employed registered lobbyists this year to advocate on their behalf before Congress to discuss—to discuss PFAS policy and legislation, and I would like to seek unanimous consent to submit the list of corporations to the record.

Mr. ROUDA. Without objection, so moved.

Ms. OCASIO-CORTEZ. Some of these corporations include oil companies like Shell, Exxon Mobil, and Phillips 66. 3M this year alone in 2019 has spent \$2.5 million on outside lobbying alone. That doesn't even include inside lobbying.

We have DuPont, which has spent a large amount of money on inside lobbying. Exxon Mobil has spent \$5.1 million of lobbying. Those are the folks who are not at this table.

So when we make accusations, I can—I can say, along with this document, that there are people spending far more money to purchase our public policy than a movie trailer right now. So I can assure the opposition that that is the case.

One thing that I am concerned with, and Mr. Chairman, I would like to also submit a second memorandum where—and enter it into the record where a Department of Defense memorandum from just last month where the department appears to be disregarding safety recommendations from the EPA regarding PFAS groundwater contamination.

Mr. ROUDA. Without objection, so moved.

Ms. OCASIO-CORTEZ. Mr. Favors, I am confused by this because we now have the Department of Defense saying that we don't need to worry about this to the EPA.

Can you shed any light as to why that is?

Mr. FAVORS. Why they say they don't need to worry about it?

Ms. OCASIO-CORTEZ. Yes.

Mr. FAVORS. I am dumbfounded because, like, you know, here is an official Air Force document from 1989 where the Air Force says clearly other chemicals which could conceivably cause acute toxicity problems would be fuels, oil spills, and a triple F firefighting foam.

So there has been tons of research where they have done it. I mean, ironically, the U.S. Army Corps of Engineers, who told the Army to replace it in 1991, it is the same agency that the Air Force is using now to investigate their PFAS.

Ms. OCASIO-CORTEZ. So we are saying—so the Army has said this is dangerous. The Air Force, in the past, has said this is dangerous?

Mr. FAVORS. U.S. Army Corps of Engineers and, yet, Air Force scientists and Air Force, you know, personnel have said yes, it is dangerous. I have documents—

Ms. OCASIO-CORTEZ. Yet, we just have a memo from just last month the Department of Defense saying this is not.

Mr. FAVORS. That is why we need subpoenas issued for this and we need a comprehensive investigation from Congress, you know, like what happened with Flint and other big tragedies.

Ms. OCASIO-CORTEZ. I concur. I concur with you, Mr. Favors.

Mr. Ruffalo, I think one of the things that you alluded to earlier in this story is that at the core this is a story about corruption and that corruption has—this level of political corruption has, essentially, poisoned people's blood.

Can you tell me a little bit about some—you alluded to there being the—you know, an activist life being ruined or impacted by this or the fact that there were mysterious shutdowns of this investigation.

Can you tell a few—tell us a little bit about some of those anecdotes and strange occurrences?

Mr. RUFFALO. So for something like this to happen at the level it did, there either had to be extreme malfeasance on the—on the corporate level, which we see from the story, but there were things that seemed to happen that this got lost in the EPA, it got lost in the DOJ, and you have to wonder what political forces were working at that time to make this story disappear.

I mean, this is—I am a film maker. I tell stories. This is a significant story. This is—this is millions of people being contaminated with a company that knew it was happening, even before they brought the actual product onto the market and we don't know anything about it. We are sitting here today discovering this.

Ms. OCASIO-CORTEZ. And you said that when Mr.—when Mr. Bilott approached the EPA with the findings on PFAS it was DuPont's attorneys that attempted to stop him with a gag order. Is that correct?

Mr. RUFFALO. That is correct.

Ms. OCASIO-CORTEZ. Thank you very much. I yield my time to the chair.

Mr. ROUDA. Thank you.

The chair now recognizes Mr. Keller—Congressman Keller for five minutes of questioning.

Mr. KELLER. Thank you, Mr. Chairman.

Mr. Favors, thank you for your service to our country. It is very much appreciated.

Mr. Faber, I am glad to notice that you mentioned in your testimony that there is language addressing this issue included in part of the NDAA. So it is not like we haven't done anything. We are trying to get things done. So I appreciate you recognizing that.

And Mr. Chairman, I commend you on recognizing this is a complex issue. So thank you for doing that.

And with that, I would just like to cover a few things here. Last week, the majority of this committee held a hearing on abortion where the only pro-life witness was attacked for not having, quote, "scientific or particular expertise in this subject matter whatsoever," end quote.

This week, the majority is once again trying to inappropriately use this subcommittee to sway public opinion and rush to try and regulate an industry where more research is required, research that should be done by scientists and subject matter experts.

But knowing no depths to how far they will go to show off their hypocrisy or help their allies in Hollywood, the majority has called as their star witness an actor. That is right, an actor.

An actor with no medical, no scientific or research expertise except for a few scenes as Dr. Bruce Banner. An actor that has a record of anti-business activism.

More importantly, to Mr. Ruffalo and maybe Democratic allies, an actor with a movie remembering—excuse me, a movie premiering this week that attacks private sector job creators with loose facts and hyped-up emotional rhetoric.

And I would like to submit for the record today's press pictures of today's press conference, for the record, that show that while this is—while this is happening the movie is being promoted right outside the Capitol with Members of Congress there.

Mr. ROUDA. Without objection, so moved.

Mr. KELLER. I am not sure if Mr. Ruffalo is looking for an Academy Award for his performance in the upcoming movie or for his performance in this hearing.

Mr. Chairman, there is bipartisan legislation out there that can actually start to get to the heart of this problem based upon scientific data we have.

Language addressing this issue is included as part of the Senate-approved National Defense Authorization Act and was unanimously reported out of the Environment and Public Works Committee.

This approach would use a number of EPA authorities such as the Safe Drinking Water Act to allow for better coordination between Federal agencies on the issue and would set drinking water standards for PFOS and PFOA, the PFAS chemicals that EPA has the most data on.

Mr. Chairman, maybe we should spend more time—more of our time working toward a real solution, getting real answers, and not talking to attention-grabbing headliners.

I yield back.

Mr. ROUDA. Thank you.

The chair now recognizes Ms. Wasserman Schultz—Congresswoman Wasserman Schultz—for five minutes of questioning.

Ms. WASSERMAN-SCHULTZ. Thank you. Thank you, Mr. Chairman.

Mr. Favors, thank you so much for taking the time to testify and thank you for your service, of course.

Your testimony really reminds us all that this is an issue of life and death. Congress and the administration cannot lose sight of the fact that real people, particularly our service members and veterans, are suffering.

I want to ask you, and I have a couple other things I want to cover so if you can try to answer succinctly. When did you and your family first learn that your water on Peterson Air Force Base may have been contaminated with PFAS chemicals?

And military bases, obviously, form the heart of several communities across the Nation. Could you describe the reaction that your family and other people in the community had when they heard about this contamination?

Mr. FAVORS. I didn't—it was 2016 where they were told to stop using their tap water. I live in New York now. I didn't know about this until 2017 when I went to visit my mother and CBS This Morning had did—was doing a little news report on Peterson Air Force Base and the drinking water, and let us just say I was very disappointed in hearing that my grandmother—my grandparents had been poisoned.

Ms. WASSERMAN-SCHULTZ. Right. I can only imagine. It is, obviously—I am sure you wouldn't be surprised to learn that this isn't an uncommon experience. The PFOA and PFOS level detected at MacDill Air Force Base in my home state of Florida in Tampa is 523,710 parts per trillion. The PFOA and PFOS level detected at the Naval Air Station in Jacksonville in my home state is 1,397,120 parts per trillion.

The PFOA and PFOS level detected at Patrick Air Force Base in Brevard County in my home state of Florida is 4,338,000 parts per trillion.

And these are just a handful of the military installations in Florida alone. So I want everyone present and watching this hearing now to hear this fact.

The risk level found by CDC's Agency for Toxic Substances and Disease Registry is 11 parts per trillion for PFOA and for PFOS it is seven parts per trillion. Seven. Above that and you start running a real risk of public health problems.

For the record, 4.3 million is greater than seven. So, Mr. Favors, it seems to me that we have a national water crisis on our hands here and our service members have been unfairly and cruelly put on the front lines of this chemical crisis.

Do members of your community believe that DOD's response to the water crisis has been adequate?

Mr. FAVORS. No. Most of them do not because we have been denied a RAB, a citizen advisory board, and they have been in control of the investigation.

The EPA stopped investigating and the state and it is a need to know basis. I mean, we have gotten emails from Germany where people on bases in Germany have been told to get out of their housing because of PFAS.

But they won't give them any specific numbers. They are just, like, you know, don't—you know, we have fliers and everything. So no, it is not just in our community but it is, you know, people connected to our community who are stationed around the world.

Ms. WASSERMAN-SCHULTZ. So, basically, they have been blocking your access to information about—

Mr. FAVORS. Yes.

Ms. WASSERMAN-SCHULTZ [continuing]. how this happened and—

Mr. FAVORS. A lot.

Ms. WASSERMAN-SCHULTZ. Well, not surprising. I am sure it won't surprise you to learn that in the last PFAS hearing that we had in the subcommittee I sat on this dais and asked representa-

tives of DuPont and 3M if they had any plans to compensate service members by the chemicals they manufactured and I had to wrench an answer out of them and they finally, sheepishly, said no, that they didn't. I told them, and I will reiterate here, that I don't know how they sleep at night.

Mr. Favors, what is your reaction to hearing that these polluters continue to deny responsibility and refuse to help people like you and your family?

Mr. FAVORS. You know, it is difficult because the period of contamination of the Air Force is from 1970 to 2016.

Per Colorado's strict 2-year statute of limitation, a lot of my grandparents and family members that fought in World War II and in Vietnam because they died before 2014 they are not able to sue anyway.

So this isn't about—and plus, there is not enough money in the U.S. Treasury to compensate for poisoning my grandmother. So, you know, it is—we are just trying to get justice and accountability. But everybody wants to pass the buck so that is why we are here.

Ms. WASSERMAN-SCHULTZ. Well, as a cancer survivor myself, I certainly can personally understand how devastating that is.

When you, as I have, faced your own mortality and stare it right in the face, you get a little bit more motivated than I might have already been about environmental justice and making sure that the actions of government or the inaction of government isn't poisoning our citizens and then allowing corporate America to get away with it.

So I chair a subcommittee in Appropriations on Military Construction and Veterans Affairs and I can assure you that we are going to continue to make sure that we hold these companies' feet to the fire.

We have added \$60 million above the president's budget request for this cleanup and we will continue to fight by your side.

Thank you. I yield back the balance of my time.

Mr. ROUDA. Thank you.

The chair now recognizes Mr. Comer for five minutes of questioning.

Mr. COMER. Thank you, Mr. Chairman, and again, I want to reiterate the fact that I think we all support clean water and trying to get sensible solution to this problem.

I want to reiterate what Mr. Keller said. There are efforts—bipartisan efforts to try to fix this problem.

And, Mr. Favors, I wholeheartedly support if any families have been poisoned intentionally by corporate America that they get compensated for that, and I want to make sure that if they get compensated they get what they are due and not have scenarios where big corporate law firm take an overwhelming cut of the money.

With that, I want to ask Mr. Joyce let us talk about these lawsuits.

Have you seen an increasing trend of state attorneys general contracting with outside law firms to conduct environmental litigation against corporations on states' behalf?

Mr. JOYCE. Yes, we have. I think that that kind of litigation is become more common in a lot of areas and I would just extend that

to beyond the states to individual communities, sometimes counties and cities.

Mr. COMER. On what basis are these outside law firms paid typically? Is it a contingency fee basis or how are they paid?

Mr. JOYCE. I think, overall, that is the typical process.

Mr. COMER. In your experience, have state attorneys general been forthcoming and transparent about the relationship with outside law firms in these matters?

Mr. JOYCE. Well, I think there is a lot is known about it and I think organizations like ours sometimes will go on the record and ask them to provide, and oftentimes they have to indicate if the—if a law firm enters into a contract with a state it has to be done publicly.

Mr. COMER. Good. According to your testimony, the American Tort Reform Association released a report called “For Profit or For the Public Interest,” which documents how local governments are increasingly accepting invitations from private plaintiffs’ law firm to bring lawsuits.

Can you describe why you feel this is a dangerous path to go down?

Mr. JOYCE. Well, I think our perspective is really kind of in multiple parts. First off is—and this is not to disparage anybody that is involved, but whether it is you in Congress, members of the executive branch, or state attorneys general and others, your responsibility is to—is to protect the public, serve the public interest.

Lawyers operating on a contingency fee basis—and again, this is not an indictment of them—but they have a profit motive and I think those can be fundamentally incompatible.

Any litigation brought by a governmental entity should serve the public interest, not the private interests of lawyers. We think that that is important.

Mr. COMER. Right.

Has there been a rise in the number of PFAS lawsuits brought by plaintiffs’ attorneys in recent years?

Mr. JOYCE. We are seeing more and more of it, and it is a growing area. I think we highlighted that in the report that you mentioned.

Mr. COMER. In your opening statement you stated it is troubling when the civil justice system is used today to punish businesses for making products decades ago that had substantial public benefits and, in some cases, were developed or demanded by the government itself.

PFAS chemicals have helped in the past many people’s lives, correct?

Mr. JOYCE. I think so, yes.

Mr. COMER. And the U.S. Navy worked with 3M to develop fire-fighting foams containing PFAS to help save lives. Is that correct?

Mr. JOYCE. Yes, that is my understanding.

Mr. COMER. And I have said this in the—in testimony before in the three previous hearings that my firefighters union in Kentucky said that, you know, very important that they have the tools—when they were aware of the PFAS testimony and everything—that they had the tools necessary to put out—to put out fires and to save their lives.

So, you know, this is something that has been used in the past to do good things. This is something that the government required companies to do.

So many of these businesses could be in a tough spot then, especially if the government required them to use these chemicals. Is that—is that correct?

Mr. JOYCE. Well, I think, again, it was done in collaboration with the government and I think with respect to the Navy, the particular instance that you mentioned—we highlighted this—back, you know, in the—in the 1960's during the Vietnam War damage to Navy ships when they caught on fire were often tragic and there was no ability to put out the fires, and now I think that has been significantly enhanced.

Mr. COMER. And, Mr. Chairman, again, I am happy that we are having these hearings. I think that there can be a path forward to help solve the problem to clean the waters to ensure that at the very least that this—that there is no more toxic chemicals that end up in our—in our drinking water.

And I yield.

Mr. ROUDA. Thank you.

The chair recognizes Congressman Kildee for five minutes of questioning.

Mr. KILDEE. Thank you, Mr. Chairman, for holding this hearing and for your leadership on this issue, and to the witnesses, thank you for your testimony.

I just need to sort of get something off my chest. Let us not be afraid of a movie. We should be afraid of the story that that movie tells.

So I know it is fun and maybe sport for some on the other side to want to attack anyone who is in the business of telling these important stories.

But I will tell you one thing. As a guy who represents a community that was poisoned and overlooked, I will take help from anyone who will step up and help tell this story to the American people.

And when I needed help in Flint, Michigan, a lot of my friends here helped. Mark Ruffalo showed up in Flint, Michigan, to help bring attention to that crisis.

So Mark, keep doing what you are doing because the way we change policy is by informing people of what policy that is currently in place is doing to them, and right now the policy that is in place in this country is poisoning people and it is our responsibility to do something about it.

So don't be afraid of a movie and don't judge the movie by just watching the trailer, by the way.

So get that off my chest.

But it is important to note—one of the comments that was made from the gentleman on the other side who is no longer in the room is that we shouldn't say we are not doing anything because we have all these provisions in the NDAA, and then after a comma, but we shouldn't regulate this until the science tells us.

The language we have in the NDAA allows us to regulate it. So, Mr. Faber, I wonder if you could just address what it would mean

specifically to list PFAS under CERCLA and what that process looks like.

Is it a ban? How does it actually work?

Mr. FABER. Thank you for the question. This is a really important question because there is a mistaken assumption that designating PFAS as a hazardous substance would be a de facto ban.

That is simply not true. CERCLA is a cleanup statute. It does not regulate chemicals. When we regulate chemicals, we regulate chemicals under TSCA, which we updated three years.

When we regulate medical devices, we regulate them under the Food, Drug, and Cosmetics Act. We do not regulate them under CERCLA. CERCLA only regulates releases of toxic chemicals and only applies when a site is so contaminated that it has to be cleaned up.

So that is a really—and I will just add one quick point on that, which is that there are hundreds and hundreds of chemicals that have been designated as hazardous substances under CERCLA. Seven hundred and sixty-one of those have been designated as a hazardous substance.

Do you know how many of those are still being used in commerce today? Five hundred and ninety-nine. They are used in all sorts of things. Three hundred and thirty-nine of them are produced at very high volumes.

So to your point, Mr. Kildee, a hazardous substance designation is not a ban. It simply requires the cleanup of the most contaminated sites and it ensures that the polluters who knowingly contributed to this worldwide contamination pay their fair share of the cleanup costs.

Mr. KILDEE. Thank you.

If you could also comment. There is this discussion, and I have to point out, Mr. Joyce, you echoed something we heard in a previous hearing that the science is incomplete in order to come to any conclusion.

I don't know when there is enough science. But just looking at the C8 study, and I see Mr. Bilott and Bucky here—Bucky Bailey, one of the heroes of the story in Parkersburg—at least at the time and maybe still, the most exhaustive human health study ever conducted, there is pretty solid science that says this is bad stuff and we ought to protect people from it. Isn't that right, Mr. Faber?

Mr. FABER. That is right. Again, we reviewed the medical records and blood work of 70,000 people. Imagine what it would take to get 70,000 people to donate their blood so that independent scientists could assess whether there was, indeed, a link between PFOA and cancer and other serious health effects.

But that is not all. There have been hundreds of additional peer-reviewed studies done by EPA, CDC, by others. But the most important source of information about the threats posed by these chemicals comes from the industry itself.

The reason we know that these chemicals cause cancer and other serious health problems is because we have seen it in on DuPont and 3M letterhead. We know because they knew.

We know because they knew in the 1950's that this stuff built up in our blood, and in the 1960's that it was toxic, and then in

the 1970's it was poisoning their own workers, and in the 1980's it was poisoning their neighbors. And they never told anyone.

They didn't tell their workers. They didn't tell their communities and, most of all, they didn't tell the EPA. And then when they did tell EPA, EPA did nothing.

EPA has known since 2001 and they have done nothing and that is why it is so important, as Mr. Keller said, that Congress has finally, in 2019, almost 20 years after EPA first found out about this, finally saying we need to reduce releases of PFAS, we need to end the use of PFAS in food packaging, and we need to clean up this mess.

We need to—we need to tell DOD, as Mr. Favors said, that when we find high levels of contamination that it is their responsibility to clean up the mess they have created over the decades.

Mr. KILDEE. Mr. Chair, if I could just close. I know I have gone over my time.

But there is a question before Congress right now on this, and so I was glad to hear my colleague on the other side mention the NDAA provisions.

There is an organized effort right now to have those provisions taken out of the NDAA in its final form. We worked really hard in the House, in a bipartisan way very often, to get those provisions included.

This is a chance to get real protection to the president's desk signed and put into law and not just a get well card to people who are facing poisoning or communities that are facing poisoning, but something tangible.

So for those of you that want to see something done, the moment is right now. Speak up.

I yield back.

Mr. ROUDA. Thank you.

The chair now recognizes myself for questioning.

You know, I look at this. I think there is three things we have got to do.

One, stop dumping. Two, cleanup where we have dumped. And three, do testing on these Next Gen chemicals.

And Mr. Favors, you—in your opening testimony, I know you weren't able to get through all of it but you aptly said, quote, "If I wanted to sell PFAS as a medicine, I would have to wait for several years of testing to prove it is safe before applying to the FDA. However, I can immediately discharge these chemicals into our environment," and let me turn to that because I know there was some questioning up here as well.

Mr. Faber, if you could elaborate on what limitations, if any, are on the dumping of these chemicals.

Mr. FABER. That is right. Thank you for the question.

Right now, there is no limitation whatsoever under the Clean Water Act with regards to discharges of PFAS into waters.

Per Mr. Gibbs' question to Mr. Favors about whether or not it is illegal to simply dump or discharge PFAS into a river, the answer is yes.

Right now, municipal—sorry, industrial polluters can release as much PFAS into the water and into the air as they want because

EPA has not used the authority Congress has given it to set limits on those releases into the air and into the water.

That is why it is so important for Congress to set a deadline for EPA to take action.

Mr. ROUDA. Right. So they can dump, they can release, and they don't have to clean up unless there is a successful lawsuit against them to do such.

And third, they have introduced up to 5,000 Next Gen chemical compounds that have not had proper testing as to the impact it has on Americans and our children.

Is that correct?

Mr. FABER. That is right, and many of those replacement chemicals were approved for use in commerce even though there were studies showing links to very serious health effects, including tumors in animal studies and other serious concerns.

Mr. ROUDA. And, Mr. Ruffalo, my apologies for the questioning of your legitimate reasons for being here. I note that you are an author, a podcast host, a commentator that has worked very hard on behalf of these issues and I am kind of curious as to why this issue is so important to you.

Mr. RUFFALO. So I am an activist as well and I have been working in the water space for years whether it was in Flint, Michigan, or it was in Pennsylvania and the fracking issue when we were being told that water wasn't being contaminated by fracking, and then we came to find out it was.

I would rather be doing other things. You know, I would rather be with my family. But I do see an imbalance in what is happening to people in the ground and what we are addressing in the media and what we are addressing here in these sacred halls.

And I have been gifted with this outsized media coverage—celebrity—and I can decide, well, I can do that to do car commercials and make a lot more money. I could do that—I could use that for any number of things to ingratiate and enrich myself.

I feel like from this blessing that I have been given that I want to give people the voice that don't have a voice, and that is really what I am doing here today.

That is why I wanted to make this movie. Nobody goes into an independent movie thinking you are going to make a killing. You will be lucky if you make a living.

Nobody comes—I mean, nobody—these people that came here today they left work to come here because these issues are real to them.

Mr. ROUDA. Thank you for doing this because, to borrow from one of your previous films, it is important to shine a spotlight on these issues.

Mr. RUFFALO. Yes.

Mr. ROUDA. And the fact that you have a podium and a microphone and a platform to be able to do that is important for this incredibly difficult issue affecting so many Americans.

I also want to talk a little bit about Congresswoman Ocasio-Cortez's observations about the greed of corporate America. And yes, corporate America does provide important products and services to our quality of life.

But let us keep in mind that 3M settled for \$875 million with the state of Minnesota after voluntarily stopping the production of PFAS chemicals.

They did not do this gratuitously. They did this because they recognized the extensive liability associated with the continued manufacturing and dumping of those chemicals into our environment and settled, again, with just one state for \$875 million.

And the reason that they have so many lobbyists and give so many campaign contributions to so many people that operate here on the Hill is because they want to maintain as little liability as possible and it is our job to make sure we hold them accountable.

With that, my time has expired. Before we close this hearing, I would like to take the opportunity to give each one of the witnesses, if there is anything—last comments you would like to make, if you could keep them brief.

So Mr. Ruffalo, we will start with you.

Mr. RUFFALO. Well, I appreciate being here, and even though I took some licks I am honored to be here.

I appreciate this—what is happening. I do appreciate what Mr. Comer is saying about this bipartisan effort and the NDAA and I want to see that happen and it would be a travesty if that doesn't happen.

And so I am honored that I could come here today on behalf of these people. I am honored to be sitting here with somebody like Bucky Bailey and Mark Favors, and I am going to keep doing this as a service to my country.

So thank you.

Mr. ROUDA. Thank you, Mr. Ruffalo.

And Mr. Faber, thank you too for your service. I meant to point out the study that you had shared with me recently regarding California, that 40 percent of its municipal water districts are showing contaminant levels above the EPA guidelines and I recognize that Ken Cook is sitting behind you as well and I appreciate the efforts of both of you in keeping a strong focus on this.

The floor is yours.

Mr. FABER. I will just add that no one wants PFAS in their drinking water. No one volunteered to have PFAS in their drinking water or their food, no one in Louisville, where EWG just found 10 different PFAS in their drinking water.

So everyone agrees we ought to clean it up and, in particular, everyone agrees we shouldn't make the problem bigger by discharging even more PFAS into the air and water.

Unfortunately, EPA hasn't used the authorities you have already given them to do so. EPA hasn't chosen to regulate PFAS under the Clean Water Act, under the Clean Air Act. EPA hasn't chosen to designate PFAS as hazardous substances under CERCLA.

And until we do those things, until we force EPA to do those things we will continue to discharge even more PFAS into the air and water.

We will continue to tell communities in Colorado that the DOD does not have to clean up legacy PFAS contamination.

So and the last thing I will just say is I think we all agree we don't want to make this problem bigger and that we should begin to clean it up.

But the other thing I think we—ultimately, the hazardous substance designation fight in the NDAA is about who pays.

Should it be—if we simply say we are going to take it out of the water, then it is just all of us who are going to pay in our water bills.

So the real question is whether or not the companies that knowingly polluted all of these rivers—rivers in Kentucky where there are very high levels of PFAS in northern Kentucky, rivers in Michigan, rivers all across the country—whether it should just be all of us who have to help pay for those costs or whether it should be the companies who should have to pay their fair share, and that is really the question Congress will answer in the next few days.

Mr. ROUDA. Thank you, Mr. Faber.

Mr. Joyce?

Mr. JOYCE. Mr. Chairman, thank you, and thank you again to the members of the subcommittee.

You know, I would simply say that public health and protecting the environment are the responsibility of the Congress and the agencies that you fund and authorize and direct to do those—do that important work.

My point in being here today was simply to talk about the litigation in this area. But as far as whatever should be done according to what is best to serve the interests of the public, my organization, I would suspect, overwhelmingly people would agree that that should be done and we should protect Mr. Favors and those who serve our country. It should protect all of us. It should be reasonable. It should be science based.

I am here simply to talk about the aspect with the litigation and making sure that litigation, regulation, all of them, are based on science—the best science, the best judgment, and that those who are in the best position to protect the public and the environment are doing that work and working to support the American people.

Thank you.

Mr. ROUDA. Thank you.

Mr. Favors?

Mr. FAVORS. I want to thank you and I hope that this committee takes seriously what seems like a bipartisan olive branch from Mr. Comer and Mr. Gibbs where we need to get to the bottom of what these discharges that the Air Force did for 30 years, authorized or not.

And I think this is a perfect opportunity just to answer that question, to show bipartisan, start, you know, sending letters and getting to the bottom of that and just—you know, just to say, you know, this is real to our family.

You can go to Fort Logan grave locator. You can find these people. They are there. They are buried. And just to go back to the human touch.

I just want to read a couple of sentences from my cousin's obituary and where it says, you know, "Princess volunteered her time, treasures, talents to many organizations throughout her lifetime. Wherever she found herself, she stood out in crowds. Matthew 5:14, 'You are the light of the world.'"

Princess nurtured her spiritual needs at various churches until she could no longer attend due to declining health. She was very

grateful and blessed for the opportunity to reaffirm and accept Jesus Christ as her Lord and Savior.

Sunset came on Wednesday, July 31st, 2013, at her home. Princess fell asleep in Jesus' arms with her loving mother, aunt, sons, brothers, friends at hers side."

I just want to know—the Air Force volunteered this information. It wasn't like I was sending them a bunch of Freedom of Information requests. We were minding our own business and they said, look, this is what we have done.

Now we need some accountability and justice.

Mr. ROUDA. Thank you, Mr. Favors.

And thank you to all of our witnesses including Mr. Bilott and Mr. Bailey, who have testified here previously.

Without objection, all members will have five legislative days within which to submit additional written questions for the witnesses to the chair, which will be forwarded to the witnesses for the response.

I ask your witnesses to please respond as promptly as you are able.

This hearing is adjourned. Thank you.

[Whereupon, at 4:23 p.m., the subcommittee was adjourned.]

